

11-1989

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# CAVEAT

VOLUME XV ISSUE 3

SCHOOL OF LAW

NOVEMBER 1989

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## THREE BULLIES IN BUSINESS SUITS

by Paul D. Katerndahl

Defending big business has become big business for many large corporate defense firms. Invariably, as corporate lawyers have become more shrewd, it has become more difficult for the average citizen to sue a corporation and win. While many of the defense techniques

employed by the corporate lawyers are legitimate, other can only be described as abusive. The three most common of these abuses are: 1. extensive time-delaying tactics; 2. excessive paperwork requirements; and 3. prohibitive cost run-ups.

### Extensive Time-Delaying Tactics:

In 1980, a newborn by the name of Vivian Lee was seriously injured when her doctor failed to deliver her in a timely fashion. Her mother filed a complaint, claiming negligence on Vivian's behalf, against the hospital. Last March, the case finally went to trial. A favorable verdict was given to the plaintiff. However, Vivian, now nine years old, will still have to wait, because the hospital has filed a motion to have the verdict set aside.

Seven years ago, Frank Boehm, at 53 years of age, was  
*CONTINUED ON PAGE 8*

## CORPORATE VS PERSONAL RIGHTS

by John Huffer

Staff Writer for the **Caveat**

The high cost of health insurance is creating a legal conflict between the corporation's right to hire whom it pleases and the right of the employees to privacy. Nobody disputes the right of a corporation to look at absenteeism in making such decisions. A legal issue presents itself, when corporations claim the right to make job-related decisions based upon an

employee's potential health problems. The employees' groups are claiming private health records should be kept confidential.

Many corporations have gone beyond looking at absenteeism caused by an employee's actual illness. In September, an article in the *San Francisco Examiner* told of many instances where corporations based personnel decisions upon facts garnered from an employee's personal health records. In one case, a

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# EDITORIAL

## A BURNING QUESTION

*"When the state is most corrupt, then the laws are most multiplied."* --Tacitus

While in the midst of rampant homelessness, HUD officials build tax-funded golf courses; while drug-crazed terrorism plagues America's inner cities, George just says "No;" and while the nation tries to come to grips with debt beyond comprehension, the Department of Defense demands the Stealth bomber with a price tag of half a billion dollars and no warranty, those fearless folks in Congress have found a real cause to champion--Protecting the Flag.

In the wake of last summer's Supreme Court decision, declaring a Texas flag-burning law an unconstitutional abridgment of free speech, Congress has frantically rushed to pass a law to make flag-burning a federal crime. What are they so afraid of? Are they really worried that someone who just might not be tickled with the way things are going could do such great harm by approaching the Sacred Symbol with a match in his hand or -- could America withstand the assault -- a Bic lighter?

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What fuels this Great American Insecurity? What is it in Americans that requires this national chest-thumping like an adolescent strutting about in his school colors? Could it be that too many Americans are secretly ashamed of some actions that have accompanied flag-waving in the past? How often has the red-white-and-blue been gloriously brandished while its bearers committed atrocities like the burning of Native American villages or the burning of crosses on the lawns of African Americans? How often is it proudly waved today, while the proud American flag waver screams vile threats and obscenities at those who dare to bring their different-colored skin into "our part of town?"

I am a veteran. I have served 18 years in the United States Navy. When I joined, and every time I re-enlisted, I took an oath to "protect and defend the Constitution of the United States of America." Unless I'm greatly mistaken, George Bush and the members of Congress have also taken a similar oath. Nowhere in these oaths is there any mention of allegiance to the flag -- or to any other "thing." The allegiance is to an "idea." One of the basic guarantees of that idea is that all those who live under it will be allowed to express their own individual "ideas" -- no matter how unpopular, how misguided, or even how wrong those ideas may be.

Only a tiny handful of individuals have ever found it necessary to display their displeasure (or whatever it was they were trying to express) by torching a flag. The FBI in 1985 recorded only eleven instances of flag "desecration" -- in a nation with a population of over 270 million. Far more numerous and more conspicuous are the thousands who, at ballgames, parades, or other opportunities presented to salute the flag they profess to so much honor, will do just about anything but stand at respectful attention with hand over heart. Many of these are the same people who demand that Congress force others to respect the flag that they won't even respect themselves.

When I'm bombarded with such a vociferous defense of something that's not really under any meaningful attack, and such an emotional claim of patriotism unmatched by appropriate personal action, I'm reminded of an old line I used to hear as a kid: "Who are they trying to convince? Me? Or themselves?"

**Jean Gifford**  
Associate Editor

## LETTER TO THE EDITOR

**Giving Credit Where Credit is Due:**

**To the Caveat:**

The new format is interesting, and in some ways easier to read. However, I don't believe that a format change makes this year's *Caveat* "Volume 1." (Must've come as quite a surprise to all the people who worked so hard on the paper in years past to see that the *Caveat* was founded this year!)

**Jeff Glick**  
Third-year Day Student

Dear Jeff,  
I'm glad to hear from you. I've enjoyed reading the articles you've written in the past for the *Caveat*, I hope you can be persuaded to continue to write for the *Caveat*.

Now to the subject of your "Letter to the Editor." The error you mentioned, was quite unintentional -- no slight was intended. I regret to say, until you brought it to my attention, I had not noticed it. I have looked to the past issues of the *Caveat* for guidance, unfortunately, in this area no guidance was available. The *Caveat* has not been published with any sense of order. Most issues either say "issue number" or nothing at all.

To resolve this problem, I am going to make this year's issues of the *Caveat* "VOLUME 15 ISSUE number." I came to this solution quite simply: This is the 15th year (according to the archive of old newspapers) that the *Caveat* has been in publication. We have issues which date back to the school year 1975-76.

I hope this solution is found to be satisfactory to our readers. Thanks Jeff for bring it to my attention.

Sincerely,  
**Ruth G. Holloway-Garcia**  
Editor

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# ANNUAL PICNIC



by Linda Newland  
SBA President

*Photos: Jean Gifford*

The annual faculty and student picnic on Angel Island brought out approximately 170 people, who enjoyed a beautiful sunny day of relaxation and camaraderie. The much-awaited softball game required the players and spectators to take a mile-long hike to reach the diamond located on the other side of the island. However, it was worth it: the view from that location is spectacular. It overlooks the Bay, and one could see afternoon sailors taking advantage of the good weather.

The faculty team led by Professor Larry Jones, required a few of the students to fill out the bench. Even so, the student team still won. *Yea Team!*

While the players were hiking their way to the ballpark, they passed Professor Mike DeVito who was completing a hike around the island prior to having lunch. He stated that he was using the hike as a means of working up his appetite, but actually, Diego Ortiz-Pacheco

*CONTINUED ON NEXT PAGE*

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# ON ANGEL ISLAND

had sent him on a reconnaissance mission to locate the ball diamond. However, he did not readily find it before the players did. Nevertheless, it was reported that he did continue his hike around the island at a very brisk pace.

While the student team was winning the game, the less active group remained at the picnic site to visit and generally enjoy the splendid view. Dean Pagano arrived with his family and very expertly took over the barbeque grill. His specialty was stacking two patties onto one bun to make a "double whopper."

Special thanks should go to all the people who made the Picnic a success: to **Paul White** and **Joe Treanor**, co-chairmen-- who braved the savage sea to get the supplies to the island; to **Mark Harrold** for leading the beer keg parade down the streets of Tiburon; to **Diego Ortiz-Pacheco** for his efforts as activities director and for rooting the student team onto victory; and to **Erin Moore** for her efforts to publicize this activity. Thanks to you all for a job well

done!



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# GGU HOSTS DISTRICT PAD CONFERENCE

by Harvie Ruth Schnitzer  
*Associate Editor*

Students from a variety of Bay Area law schools participated in the Phi Alpha Delta Law Fraternity District II Leadership Conference, held September 23 at Golden Gate University, to learn first-hand the value of belonging to this organization. In addition to the students, present at the conference were a variety of legal professionals (all Phi Alpha Delta Alumni) who serve as district and national officers for the international professional and legal organization.

"Actually, the term 'fraternity' is a misnomer," said Curtis Anderson, a member of PAD's international tribunal and an attorney working in Washington, D.C. for the Department of the Interior. "The term conjures up the image of a typical frat house from the movies and is not at all what we're about. Though Phi Alpha Delta chapters do hold a great many social events, the main purpose of the organization is much more professional and career oriented...we sponsor debates and speakers, we participate in legally related education programs, we offer outline workshops and "study buddy" programs for first-year students, and we offer resources, resume and interviewing services to Phi Alpha Delta members looking for jobs in the field."

Membership in Phi Alpha Delta, the largest legal fraternity in the world and second in size to the American Bar Association, is open to any law student at an ABA-accredited school which supports a Phi Alpha Delta chapter. The organization does not discriminate and the members do not vote upon the acceptance of applicants. First-year students are encouraged to join, primarily because of the benefit they can receive from Phi Alpha Delta membership early in their law school experience. Of all the law fraternities, Phi Alpha Delta was the first to admit minorities and the first to admit women -- and has been active since then in recruiting from the entire student population at schools where it has chapters.

The conference was organized to help current PAD members and officers plan the year's activities and to offer ideas and suggestions for activities, fundraisers and social events. Students were encouraged to make plans to attend the Phi Alpha Delta convention to be held next summer in Florida. Particular attention was paid to the importance of getting PAD alumni involved with the chapters on campus. "We are an organization that can be of valuable service to its student member, the only trick is prying them away from their books long enough to join," joked John

Weitcamp, who is in charge of special projects for PAD. "I think making the contacts that I made when I joined PAD in law school -- not to mention the friends -- is one of the smartest investments of time and money that I ever made."

The Golden Gate University chapter of Phi Alpha Delta is still taking applications for fall membership...a joint initiation ceremony will be held November 2, at San Francisco City Hall with students from UC Hastings. (And a party will follow after!) For membership information, please leave a message in the PAD mailbox in Room 223 or contact a Phi Alpha Delta member.

## **PAD Sponsor's a Brown Bag Lunch Series For November:**

On Thursday, November 16, 1989, from 11:45 a.m. to 12:45 p.m., Phi Alpha Delta is sponsoring the speaker, Thomas Cain, Deputy County Counsel of Santa Clara County. The topic will be: **"Public Entity Representation--Employment Opportunities"**. The event will be held on the sixth floor in Rm. 602. Bring your lunch, the speaker welcomes your questions and is interested in furthering your legal education.

Phi Alpha Delta's **Brown Bag Lunch Speaker Series** is being brought to you by the Everett Dirksen Chapter of Phi Alpha Delta Law Fraternity International.

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# CORPORATE VERSUS PRIVATE RIGHTS

FROM PAGE 1

corporation was denied a promotion to the presidency. This denial was based completely upon a physician's comment contained in his personal medical records. Access to such records is technically a breach of the doctor-patient relationship. However, this kind of breach of confidentiality is impossible to prove. Private detective agencies advertise openly their ability to provide such information for a fee. Computerized hospital records are easily copied tracelessly by anonymous employees.

Corporations rarely admit to making decisions on unacceptable grounds. This is often done to spare the feelings of the employee, but also done to provide a shield against lawsuits. The applicant is told "you were one of the final contenders, but so and so just impressed us more in the interview." Any concrete grounds for disputing the decision are carefully omitted by the savvy employer.

So what is the trend today, in this area of the law? The personal rights granted to us by the judicial activism of past courts are being eroded by the judicial conservatism present today in the Rehnquist Court (U.S. Supreme Court) and the Lucas

Court (California Supreme Court.) Corporations can therefore move with impunity to cut their health insurance costs, by selectively terminating smokers, overweight people and others with potential health problems. For example, in *Tameny v. Atlantic Richfield*, 27 Cal. 3d 167, 610 P.2d 1330 (1980) the California Supreme Court under Chief Justice Bird imposed both expectation measure and punitive damages against a corporation that wrongfully terminated a long-term employee. Recently, the Court under Chief Justice Lucas, modified this decision. In *Foley v. Interactive Data Corp*, 47 Cal. 3d 654, 765 P.2d 373, (1988) the Court held a wrongfully terminated employee can only expect to receive expectation damages. By this change in damages, the prospective award for most employees, who prove wrongful termination, will not even cover the cost of the attorney filing the initial complaint.

Similarly, there is not much hope of proving wrongful termination, if you are terminated for being considered as a health risk. This past summer, the U.S. Supreme Court held that mere statistics are not enough to prove discrimination. To prevail, the plaintiff must link such statistics

to a specific employment practice. (See *Wade v. Ward Cove Packing*, \_\_\_\_ U.S. \_\_\_\_, 1989.) Few employers are so foolish as to supply proof of questionable employment practices.

Medical research into such areas as genetic mapping will pose even more far-reaching legal questions. Currently, biologists can scan your chromosomes through the use of blood samples. They can tell whether or not you may have the pre-disposition for any number of genetically passed on ailments. (e.g. Huntington's disease--a disease which attacks the nervous system. Today, by having a blood test done, a doctor can tell a patient whether or not he/she will eventually be stricken by this disease.) Eventually, research will give the doctors the capability to predict with ever increasing accuracy whether or not you will likely suffer from cancer, Alzheimer's disease, or a host of other long-term and high-costing medical illnesses. The issue is whether it is equitable to allow prospective employers and insurance companies to have access to this information, since it may mean the difference between a person's ability to obtain a decent-paying job or proper medical and life insurance coverage.



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# THREE BULLIES IN BUSINESS SUITS

FROM PAGE 1

Broadcasting Company (ABC). Today, he has yet to see an award, because the case is still up on appeal. (See *Boehm v. American Broadcasting Company*, U.S. District Court - Los Angeles, number CV86-1984RMT.)

These long drawn-out cases are no longer the exception, but fast becoming the rule. A corporation's attorneys will intentionally prolong a case, in the hopes of persuading the small litigant to give up or settle prematurely for significantly less than he/she may be entitled to collect.

There are many ways for the attorney to protract the suit. Court dockets are often so crowded that almost any excuse will be accepted by the courts for pushing back the court date. Delays can also result from lawyers arranging to be unavailable whenever the opposition wants to make a motion, or from lawyers withholding documents from the other side for as long as they can do so without court sanctions. According to one partner from a large downtown San Francisco corporate defense firm: "Although it is uncommon for a defense attorney to admit that he or she purposefully delays certain trials, it is widely known that all the good ones do it."

Most experts would agree, the most effective time-delaying technique utilized today, is simply the act of dragging out the discovery process. In discovery, among other things, each side can ask for

interrogatories, request documents, depose parties, and inspect places and things. Theoretically, this should speed up a trial, since all the facts come out ahead of time. Ironically, the opposite is becoming true. A corporate defense lawyer can use the process not to facilitate the trial, but to lengthen and often terminate it. Excessive discovery has become so commonplace a technique for the corporate defenders, the average citizen/litigant will often take some remuneration now, rather than wait for the bigger bucks he/she might ultimately get after such painstaking delay.

Even when a suit does manage to reach the courts, the trial itself can take years to resolve. Continuances are sought; juries are challenged; and judgments are appealed. Keeping a suit alive can often be the best defense for a corporate defendant. This is particularly true in areas such as personal injury, where the passage of time often improves the litigant's physical condition, making a large verdict less likely. In cases where harmful substances released into the environment by the defendant form the basis of the litigation (such as asbestos), the passage of time is critical, because often the effects of the harmful substance make the litigant unavailable for trial because of extreme illness or death.

## Excessive Paperwork Requirements:

In 1969, the International Business Machines Corporation (IBM) was sued for alleged

violations of the Sherman Anti-Trust Act. For some time, the corporation fought to limit the items which would have to be produced. (Once information is presented to an opponent, it can be used in documents submitted to the court, at which point it becomes public.) Finally, after the court made its determination, in favor of requiring IBM to produce certain documents, IBM proceeded to produce more than was required. Literally, they produced tons of documents to the suing agency. (Over a million in all.)

The example of IBM is not an isolated one. Corporate defense attorneys will fight for months to limit what they must disclose, then when that fails, over supply the plaintiff with marginal and even useless information. (This technique is aptly described as a "paper blizzard.") This material will then have to be laboriously sifted through in order for the plaintiff's lawyer to find the relevant information. According to one deputy assistant attorney general handling such cases, "[the defense lawyers] attempt to drown opposing council in a sea of paper." (See Wayne E. Green, "The Delaying Game", *The Wall Street Journal*, 26 May 1976.)

Another way corporate lawyers utilize paperwork to their advantage is by sending lengthy interrogatories (affectionately called "rogs") to the litigant. Defense will ask irrelevant and onerous questions, which adds further delay to the trial process and ultimately frustrates the

CONTINUED ON PAGE 9

litigant. Said one Securities Exchange Commission attorney, "individuals hardly stand a chance of beating a big company in a long, costly legal battle. Business lawyers will paper a little guy to death. The first thing they'll do is give him a 10,000 - page set of interrogatories. There's no way he can answer that." (See J.S. Diamond, "Trial By Fire Lives On in the Civil Suits", *The Los Angeles Times*, 27 November 1986.)

#### Prohibitive Cost Run-ups:

While a long suit is more costly for the large corporation than it is for the individual litigant, nonetheless, it is often to the corporation's advantage to spend the money on legal delay tactics, rather than to allow the case to reach the court. However, often when a case has very little or no merit, strangely enough, businesses will settle the case for far beyond its actual worth. The reason is simply good business. Such cases are settled for their "nuisance value", which is usually well below what it would cost to provide a legal defense. For example, a woman in California recently sued a church, after she had suffered an injury, when she slipped inside the church's parking area. Although the defense attorney was certain the church would win the case, the church settled with the woman for \$80,000, a figure well below what it anticipated it would have paid out in legal fees. This often explains why small litigation firms are willing to take on hundreds of such

marginal cases, while refraining from taking on a meritorious one.

Many times, the small plaintiff firms are reluctant to try and go up against a large corporate defense firm, because they must bear most of the initial expenses up front. They know there is always a good possibility that their client may become discouraged and wish to accept a low settlement, rather than suffer a long drawn out court battle. For this reason, the small plaintiff firm may not wish to take such a case upon a contingency fee basis. (Contingency fee arrangements in personal injury cases are the most typical means by which a plaintiff attorney receives payment for his/her services.) With attorney fees being anywhere from \$85 to \$200-plus per hour, not just any lawyer can afford to sue a big corporation. Particularly if the corporate defendant chooses to drag the case out. Therefore, very often a strong case will receive the same settlement as a weak one; sometimes even less.

According to the experts, the three bullies in business suits are showing up in legal battles more and more of late. Nevertheless, courts have been highly reluctant to do anything about it. Severe penalties can be imposed upon a lawyer who deliberately tries to prolong a trial. However, judges, who are themselves lawyers by training, are reticent to decide between what constitutes a necessary delay and an excessive one. Judges do not have the time to oversee every stage of a lawsuit, nor do they want to risk

interfering with legitimate delays that might be essential to a fair trial. Furthermore, defense attorneys justify their actions by arguing that it is no less ethical to discourage lawsuits than it is for "avaricious lawyers [to] seek outrageously high damages for clients who have flimsy cases." (See Walter Isaacson, "Sorry America, Your Insurance Has Been Cancelled.", *Time* v.127, 24 March 1986.) With the huge increases in lawsuits and court awards, and the tendency for litigants to always seek the "deepest pockets", the defense attorneys argue that many companies would fail if they always had to play by the rules. Already this country is facing a serious insurance crisis, as a result of the level of favorable court verdicts for plaintiffs. Many firms are foregoing the use of insurance altogether, because it is either too expensive, or no one is willing to insure them. One big award will break many of these companies.

At present, it would appear that the bullies are here to stay. Any proposed solution to the problem will have to be fairly extreme and will necessarily conflict with traditional legal practice norms. Some suggestions have been made to limit the size of awards available to plaintiffs, in order to reduce the corporations' fears of going to trial. Another proposal is to set a maximum time limit allowed for discovery. A final solution offered, to bring an end to this problem, is to have capital punishment reintroduced in all of the states; then hang a few lawyers every day until none are left to litigate.

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## LAW PRACTICE LOSING ITS POPULARITY.....

by Harvie Ruth Schnitzer  
Associate Editor

On October 2, 1989, a front-page story in *The San Francisco Chronicle* merely confirmed, what a month earlier, legal career counselor Hindi Greenberg told an audience filled with burned out lawyers, "Law career discontent has become rampant in the United States and the statistics prove it -- almost half of the people holding law degrees choose not to practice law and half of those who are in practice wish they were doing something else."

Ms. Greenberg, a 1974 law graduate from UC Hastings, who founded the group *Lawyers in Transition* nearly five years ago, spoke before a packed house of attorneys on September 11, who were attending her career options seminar entitled: "What Can You Do With A Law Degree?" A quick poll of the attorneys present showed that most of them had been out of law school five or more years and were between 30 and 40 years old. Some were working in large law firms; others were sole practitioners; and a handful worked for the government or in public interest law. At least half were litigators. After learning the breakdown of those present, Ms. Greenberg commented, "Discontented lawyers span the spectrum -- they aren't any one type of person and they certainly aren't people who are quitters or

low achievers. They are people who are taking a second, perhaps much longer, look at their lifelong career choice...and may be concluding that practicing law isn't all that they thought it would be."

Hindi Greenberg was quick to admit that *Lawyers in Transition* was not founded to discourage people from becoming attorneys or to encourage present attorneys to quit their jobs and the field. "It was originally founded as a support system for those of us who were unhappy with our career choice...and now it's evolved into an organization that can help attorneys make career decisions -- whether to find another job in the area of law ... or to find one outside law ... or to stay right where they are."

The seminar began with a dispelling of some of the popular myths that surround the practice of law:

*"Finding the right job will make my personal and professional life complete."*

*"Only artists, musicians, and athletes do work that they love."*

*"I'm too old (young, overqualified, etc...) to change careers."*

*"It's who you know -- not what you know -- that's the basis for career success."*

*"I have only a few marketable skills."*

*"Somewhere out there is a career that will fit perfectly into my life."*

*"Once I've selected a goal, getting there is mostly luck."*

Greenberg explained that there is a four-step process involved for those contemplating a career change -- or for those at the beginning stages of their career:

"The first step is to ask yourself who you are?" Ms. Greenberg stresses the importance of a thorough personal assessment of skills, styles, values and interests ... what type of things in life do you value? How much time are you willing to put into a job? How important is working with people? Is having a sense of satisfaction about your job important? How important is making money? A series of questionnaires was distributed by Ms. Greenberg. They were designed to help the seminar participants focus upon their skills, needs and interests ... and she concluded the discussion on this step by saying, "If your job is at odds with your values, you won't be happy."

"The second step in the process is analyzing what your options are." She went on to say, "Each of you in this room has more options than you may realize: you can work in law; you can work in a law-related field; or you can do something totally outside of the area of the law. What is important to remember is that you do have options -- you all have undergraduate degrees, as well as having a law degree -- and you all have very marketable skills that you can use in a variety of jobs."

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## BUT LAW SCHOOL IS MORE POPULAR THAN EVER

...FROM PRECEDING PAGE

Some of the alternative careers within the legal profession discussed by Ms. Greenberg include research writing, working as a court clerk, mediation, public interest law, working for a labor union, legal education, working for a Bar Association, working as an administrative law judge or working as a hearing officer for a Rent Control Board or a similar governmental entity.

Some of the alternative careers Hindi suggested which are related to the legal profession (but do not require your being an attorney) include doing the following occupations within a law firm: public relations, internal communications, office management, and in-house training. Some options outside of a law firm include positions such as corporate trust officer or affirmative action officer. Jobs suggested in legally related fields included working in law schools, in legal publication houses, in legal employment agencies and for a legal newspaper. She also mentioned that there are job opportunities available to one with a law degree in law enforcement as well as other governmental departments.

Ms. Greenberg stressed that the only limits to job opportunities found outside the legal profession are those of the individual's interests, skills, and experience. Some of the jobs she suggested involved applying your legal knowledge to

publishing, journalism, advertising, marketing, communications, real estate, banking, finance, insurance, and politics. "Once you start looking around, you'll be surprised by the number of people who are successful in other careers who have law degrees."

"The **third step** in making a career transition is to determine what's the best focus for you," Greenberg said. "Sit down and think about why you decided to go to law school ... why you decided to be a lawyer. Was it to make money? Was it for the image or the prestige? Was it to work with people? Or to help people? Or to make a difference? How much time are you putting into your job? How much satisfaction are you getting out of it? How can you change your situation to be happier?" Hindi cautioned the seminar participants to move slowly and carefully when making career decisions ... to gather information and to use their support systems and to utilize the resources (like *Lawyers in Transition*) that are available.

"The **fourth step** in making a career change is figuring how to get there," she said. Networking, getting out and meeting, informal interviewing (to see what a banker/real estate agent/professor does) and having a professional and polished resume are all details that demand attention. "It's

important that you stress your transferable skills and that you use language that the lay person will understand. Don't tell them you know how to litigate ... tell them you know how to speak effectively and persuasively."

"There are many things to consider when contemplating a career change or when trying to make an initial career decision ... you have to consider your agenda, your family's agenda, the economic realities balanced against your personal happiness, and your willingness to compromise. Making a decision is a two-step process: the decision to change and then dealing with the consequences afterwards."

Ms. Greenberg summed it up for her audience by saying not to make hasty career decisions, and to plan any changes carefully. "Build your contacts, build a nest egg, keep an open mind, identify yourself with the final result and have realistic emotional and financial goals." She closed the seminar by distributing resource guides and a comprehensive career evaluation manual, and by citing a few more statistics: "According to the American Bar Association, 25 percent of all attorneys say that they plan to change jobs in two years ... and half of those are to move outside of the law. And, perhaps the most startling, 85 percent of the attorneys under 30 said that if they had it to do all over again, they would NOT have picked the law."

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# Judicial Externship with the Honorable Thelton E. Henderson

by John G. Karris  
Freelance Writer

Last summer I worked full-time as a judicial extern for The Honorable Thelton E. Henderson, of the United States District Court for the Northern District of California. I found it to be a very valuable experience, one I would wholeheartedly recommend to anyone who has the opportunity.

## Advantages to a Summer Externship:

Working as a judicial extern over the summer has several advantages over working as a well-paid summer associate at a law firm. The most important one is you will probably learn far more about how the Court operates and obtain far more practical writing and research experience than you would as a summer associate. Another consideration is you can earn up to 8 units of credit over the summer which will lessen your remaining courseload and enable you to work more and earn more money during your remaining semesters at GGU. (Of course, GGU does not waive the tuition for your units of credit.) Finally, if your goal is to become a judicial clerk after graduation, judges will be very impressed if you have experience as a judicial extern. The only major drawback to working as a judicial extern over working as a summer associate, is the Court can not afford to pay you a salary.

## Court Procedure in Judge Henderson's Chambers:

Each summer, Judge Henderson hires three summer externs. As a summer extern, you will be assigned one civil law motion, usually a summary judgment motion or a motion to dismiss, per week. In addition, you will be assigned at least one prisoner's habeas corpus or civil rights action and at least one bankruptcy appeal or Social Security case. If time permits, you will be assigned to assist the judge

with a trial, although this is not guaranteed, because the Judge's summer trial calendar is usually sparse.

Assignment of civil motions may be given out weeks ahead of time. However, the reply brief is not due until two weeks before the hearing and the response brief is not due until one week before the hearing. You are given until the Thursday before the hearing to write a bench memo. A bench memo entails reviewing all three briefs, conducting necessary independent research and writing a discussion of the issues and a list of recommendations for resolving the issues. When appropriate, you will also recommend cancelling or limiting oral argument or assigning the motion to a Magistrate.

Assuming the judge has not cancelled oral argument, the hearing on your motion will be conducted on Monday morning. You will sit in the jury box and listen to the oral arguments on the motion you were assigned. Sometimes, the judge and the lawyers will refer to you in their remarks. After the oral arguments, the judge will usually take the motion under submission rather than rule from the bench. Later, in the afternoon, you will discuss your motion with the judge, in a staff meeting very similar to the type of meetings depicted on "L. A. Law". After this discussion, you will write a draft opinion on your motion. When you are finished, one of the law clerks will review it and most likely will require you to make some revisions. When the law clerk is satisfied that no more revisions are needed, you will submit your opinion to the judge. However, after the judge's review, you may still be required to make further revisions as he deems necessary.

You will have more flexibility in the way you approach a prisoner case and a bankruptcy or Social Security case,

because usually there is no hearing in any of these cases.

## Supervision:

The law clerks will provide you with as much supervision and guidance as you need. Although Judge Henderson is very approachable, he will not take an active role in answering your questions. This experience was similar to the one I had when writing for *Law Review*: Like the editors on *Law Review*, the judge and the law clerks are there to give you valuable feedback about your writing skills. They may require you to make many revisions. For example, it took me almost all summer and I wrote about ten drafts, before finally completing a very complex prisoner's habeas corpus case. However, it was very rewarding in the end, because the final product was almost exclusively my writing and my ideas. It will make a very good writing sample.

## Atmosphere

It was very pleasant working with Judge Henderson, the law clerks, and the other externs. I enjoyed the opportunity of listening to the speakers, including Judge Henderson, who made special presentations during "brown bag" lunches throughout the summer. Judge Henderson's chambers seem to me to be more relaxed and less formal than many of the other judges' chambers. Sometimes, I went with one of the law clerks to aerobics classes held in the basement of the Federal Building or in the Art Institute nearby. At other times, I would join either one of the law clerks or externs for lunch. On an extern's last day, the Judge would take the entire chamber out to lunch. I have on many occasions since my externship visited the Judge's chambers. I still feel as comfortable and welcome as I did last summer, when I had finished my first assignment on time. My fellow externs and I have remained in contact with each other and we are planning to have lunch with the remaining law clerk sometime soon.

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## Judicial Externship with the Honorable Marilyn Hall Patel

by Constance Norton Spalding  
Freelance Writer

This summer I had the good fortune to serve as an extern to The Honorable Marilyn Hall Patel, United States District Judge for the Northern District of California. I originally heard about the possibility of an externship from GGU graduate, Amy Hirschkron, who was an extern to The Honorable Fern Smith last spring. I responded to an announcement in the *Law School News* and went to speak with Professor Marc Stickgold about the requirements of the position.

Shortly after mailing in my materials, I received a call from Judge Patel's law clerk, who scheduled a screening interview. During the screening interview, I received information about the position and the law clerks asked me questions about my qualifications and expectations. Afterward, I met with the judge for over forty-five minutes. I was impressed by the fact that she took a personal interest in not only the interview process, but in my background and aspirations. Her interest was not merely a good first impression; Judge Patel maintained an openness and approachability during the entire summer.

As one of three externs to Judge Patel, I received a new assignment every Monday. Most

of the assignments were matters on the civil law and motion calendar the following Monday. I would obtain the case file from the law clerks or the records clerk. Upon receipt, I focused upon the briefs concerning the issue on calendar, reading the remainder of the file for background. After reading the file and key cases, I frequently was required to perform independent research on the issues. Then, I prepared a draft memorandum and order (usually between 10 to 20 pages in length) and submitted it to the judge by Friday afternoon. The judge would review my work over the weekend, reading the briefs and cases to ensure that I was legally accurate. No opinion or order leaves Judge Patel's chambers before she reads and approves it. All opinions and orders are cite checked and edited three times.

During the course of the summer, I wrote approximately nine draft memoranda and orders. In addition to the calendar matters, each federal district judge is responsible for a portion of the caseload for Social Security appeals and prisoner habeas corpus and civil rights actions. These are on-going projects; an extern will usually work on three or four of them during her or his tenure.

In Judge Patel's chambers, an extern may obtain as much

supervision and direction as she or he reasonably requires. Each extern has quite a bit of individual autonomy, provided her or his work assignment gets done. Judge Patel is available for questions and focus, but she expects you to be prepared prior to availing yourself of her assistance. I highly recommend the experience of serving as an extern for a federal judge - and for Judge Patel in particular. I found it to be a wonderful finale to my law school education. However, I think an academic semester, as opposed to the summer, might be an even better experience. I felt I was just getting to the point where I was learning to focus upon the dispositive issues, tightening my writing skills and my oral presentations to the judge, and mastering my computerized research -- when it was time to leave.

Judge Patel is a devoted, scholarly, personable and fair judge. In addition, she is a positive, professional role model. She is strong and demands you give your performance its absolute all. I especially valued the fact that she treated me with the same respect, vitality and style she uses when addressing attorneys who appear before her. I would say, without a doubt, the most positive and enriching work experience I have ever had was externing for Judge Patel.



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# CALIFORNIA SUPREME COURT WATCH

by Mark Dressler  
Special to the Caveat

In August, 1989, the California Supreme Court decided three cases affecting rent control, welfare recipients, and voter registration. The Court held that local rent-control boards may not award treble damages; that welfare recipients may invoke equitable estoppel in Department of Social Services hearings where the question of overpayment is the issue; and that a county is not required to deputize its employees as voter registrars.

## Court Strikes Down Treble Damages in Rent Control:

In a decision with implications for tenants' rent-withholding provisions in Berkeley and other Bay Area communities, the state high court upheld the power of the Santa Monica Rent Control Board to adjudicate claims of rent overcharging. However, at the same time, the Court held that the Board's awarding of treble damages to aggrieved tenants exceeded the Board's authority. The Court also found the Board's authorization of immediate rent-withholding in violation of the California Constitution, under the judicial powers clause.

Santa Monica's rent-control ordinance contains many tough pro-tenant aspects similar to those found in the Berkeley rent-control ordinance. However, the Berkeley rent-control ordinance will not be affected by this decision. In the last November election, a measure to amend the Berkeley rent-control law to include treble damages against over-charging landlords was defeated. The chief argument against the Berkeley treble damages amendment was that such an amendment would benefit tenants' lawyers, but would subject the entire Berkeley rent-control ordinance to judicial review. The treble damages

provision in the Santa Monica rent-control ordinance apparently did motivate landlords to take the case all the way up to the state's high court, on the theory that it was excessively punitive.

It should be noted that this case, *McHugh v. Santa Monica Rent Control Board*, 89 Dly. Jnl. DAR 10519, shows a break from the past. The California Supreme Court under Chief Justice Malcolm Lucas is moving away from a sympathetic stance for expanding tenants' rent-withholding rights. It seems to be moving more towards protecting the rights of the landlords. One should continue to keep a close watch on this court where landlord-tenants' rights are concerned.

## Welfare Recipients May Invoke Equitable Estoppel on Overpayments:

The Department of Social Services, (DSS) had erroneously overpaid welfare recipients, and the DSS held administrative hearings to resolve the return payment problems. Some welfare recipients tried to invoke equitable estoppel in these hearings, but the DSS director prohibited such invocation. The California Coalition of Welfare Rights Organization sued to resolve the controversy.

The California Supreme Court reversed the appellate court's ruling upholding the DSS director's prohibition on the invocation of equitable estoppel. There were four reasons given to explain why the Court held that overpaid welfare recipients may invoke equitable estoppel in DSS hearings:

1. Other state agencies, such as those governing housing construction and unemployment insurance provide for equitable remedies.
2. The DSS allows for factual questions to be addressed in administrative hearing. Equitable estoppel is a question of fact.
3. The Court's interpretation of the California Constitution's judicial clause

differed from the appellate court's, with regards to the statement of whether an administrative agency, such as the DSS could apply equitable estoppel. The lower court held that the clause only permitted the application of equitable estoppel in court proceedings. The California Supreme Court held otherwise and extended its application to administrative hearings.

4. The Court contended that all of the elements required to invoke equitable estoppel existed in this case.

The Court noted, "Welfare department workers, who purport to advise and direct recipients, clearly stand in a confidential relationship to them, and a recipient's justified reliance on a welfare department can produce compelling hardship. The failure to apply estoppel in such circumstances may cause serious injustice." The case is *Lentz v. McMahon*, 89 Dly. Jnl. DAR 10533.

## County is Not Required to Deputize Employees as Voter Registrars:

In Los Angeles County, the group Common Cause had succeeded in obtaining an injunction to enjoin the county from refusing to deputize county employees, who came in frequent contact with low-income and minority citizens. The appellate court affirmed the injunction, but the California Supreme Court reversed the granting of the injunction, claiming that the plaintiffs lacked standing, and the county would be "harmed" by the injunction.

Aside from the question of standing and harm, the Court held, a county is not required to deputize certain county employees to register voters, simply because they happen to have frequent contact with certain segments of the county's citizens. The case is *Common Cause of California v. Board of Supervisors*, 89 Dly. Jnl. DAR 10803. Justices Broussard and Mosk dissented, stating, "The right to vote is fundamental."

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# PROPOSITION S: Expanding The Rights Of Domestic Partners

by Jean Gifford  
Associate Editor

On November 7, the voters of the City and County of San Francisco will decide whether to implement a law granting certain rights already enjoyed by married couples to those who are unmarried, but wish to designate someone as a domestic partner.

The Domestic Partnership Law allows two unrelated people who live together, and agree to be responsible for each other's basic living expenses, to create a domestic partnership by registering the partnership at City Hall. This partnership gives each person the right to visit the other in the hospital (a right usually given only to close relatives) and if he or she is a city employee, the right to bereavement leave if the partner dies.

Last summer, the law was passed unanimously by the Mayor and the Board of Supervisors; however, a group calling itself *San Franciscans for Common Sense* gathered the minimum number of signatures required to force the issue to be again decided by the voters. It is on the ballot as Proposition S.

Although the law applies equally to heterosexual and homosexual couples (or for that matter, to people who are not in a sexual relationship at all), most of the opposition to the bill comes from conservative and anti-homosexual religious groups. These groups have called Proposition S "legally reprehensible" and have attempted to categorize the law as a step towards granting health benefits to the domestic partners of city workers.

Marc Slavin, a former Golden Gate University law student, is one of the leaders of the "Yes on S" campaign. Mark explains that the Mayor did convene a task force to consider the

possibility of granting health benefits to domestic partners, *but this did not become part of the Domestic Partnership Law*. Even if it had, or if it does in the future, over 95 per cent of city employees pay health insurance premiums themselves for the coverage of their spouses and other dependents.

Residents of San Francisco should seriously study the pro and con arguments being expressed on Proposition S. Get to know the facts. However one feels about the issue, he or she should express this belief by voting on November 7th.

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## PROP. S. ROUND TABLE DISCUSSION AT GGU

by Jean Gifford  
Associate Editor

On September 13, a Round Table Discussion was held at Golden Gate University, to promote understanding of the issues raised by Proposition S. This discussion was cosponsored by Bay Area Lawyers for Individual Freedom and Stonewall Law Caucus/Lesbians in Law. Moderating the discussion were Mary Dunlap, a San Francisco sole practitioner who specializes in the area of civil rights and an adjunct professor at Golden Gate and T.J. Anthony, Administrative Aide to Supervisor Richard Hongisto. Approximately 50 people were in attendance, a mixture of students, attorneys, and others interested in the issue.

Mary started by pointing out that Proposition S is only one of many efforts currently aimed towards the legal recognition of relationships other than the one found in a traditional marriage. She cited the Los Angeles Committee on Ethnic Diversity, which recently recommended adoption of different forms of families; the Bar Association of San Francisco which

presented a resolution to urge the California Bar Association to pressure legislators to amend Civil Code section 4100 to allow marriage "between two persons" (the California Bar Association's Conference of Delegates has since adopted such a resolution); and a recent New York City case which recognized a gay relationship as a family within the meaning of the rent control law.

Much of the rest of the discussion centered upon gay relationships and whether or not current marriage laws address issues important to gay men and lesbians. T.J. Anthony pointed out that the state imposes a contractual relationship upon married couples, who often do not fully understand the terms of their contract. Another participant urged homosexual attorneys to take the initiative of ensuring that members of the gay community receive accurate information on the rights and responsibilities of marriage.

Most of the participants clearly agreed upon the idea that within our current society, people's definition of "family" has greatly changed; but the law has not expanded to keep pace with this change. Measures like Proposition S will at least allow domestic partners the right to visit their loved one in the hospital; where previously this right was only granted to the patient's "close relatives." It will also serve to provide some means of expanding basic rights to all relationships, regardless of their sexual context.

T.J. Anthony compared the problem some people have in legally recognizing lesbian and gay relationships to the prejudices that allowed laws forbidding inter-racial marriage to persist until just over 20 years ago. As Mary Dunlap put it quite succinctly, "We are in the midst of a tremendous opportunity for change -- and tremendous reaction."

# The Career Placement Center at GGU School of Law ...

by Ruth G. Holloway-Garcia  
Editor

Recently, I had the opportunity to conduct an interview with Tony Bastone, Director of the Career Placement Center at GGU's School of Law. It touched upon the subject of what a student's expectations should be with regards to the Career Placement Center.

**Caveat:** Many people come into the placement office with the idea that you are some kind of fairy godfather, who can wave a magic wand and give them a job. Do you see yourself in that light?

**Tony:** "I've been in this job for eleven years, and I have never found a job for a student yet. The idea of picking up the phone and calling a law firm and saying 'I want you to hire so and so,' is not the purpose of this office."

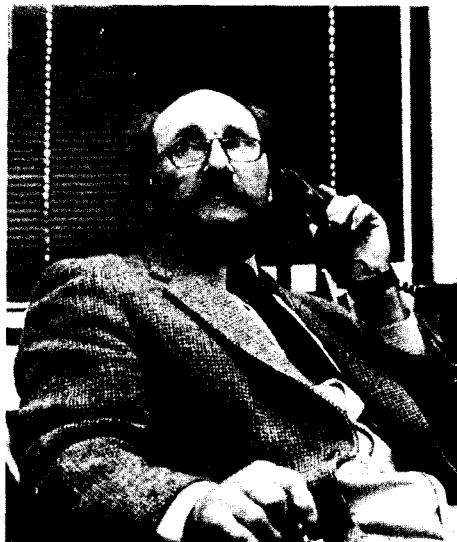
**Caveat:** What is the purpose of this office?

**Tony:** "The purpose of the Career Placement Center is to:

1. Act as a conduit for coming in touch with legal employers;
2. Show a student how to make contacts;
3. Assist the student in the process of finding a job by teaching the student the skills of writing a resume and cover letters, and how to follow up once you have submitted your resume and cover letter.

This office is a major depository, which holds a vast number of resources to assist the student in obtaining a legally related job. There are listings for both full and part-time jobs. In three years, (at GGU) I have yet to work with a student who has been unable to secure at least a part-time job. However, the student must make proper use of this resource."

**Caveat:** Do you think it is a good idea for first-year law students to seek a summer job in the legal profession?



**Tony:** "I do not advise students who have completed the first year of law school to seek a legally related job in the summer. The first year takes a lot out of a student both physically and mentally. If a student can afford it, he or she should take a vacation, and not work at all. However, if this is not possible, then the student should attempt to find work in some other field. The reason is that for the rest of your life, you are going to be involved in a legal or a legally-related position." (Tony acknowledges that his advice isn't always followed.)

**Caveat:** Tony, how important is it for a student to make use of the placement center?

**Tony:** "This placement center should be an integral part of a student's legal education. It is imperative that a student take advantage of the opportunity to gain legal experience during the time he or she is going to law school. Why? For the practical experience (which looks good on a

resume), and for the opportunity to find out in what field of the legal profession one might want to apply his or her legal education."

**Caveat:** What if a student already has a job and is only going to law school part-time; how can he or she work in a legally related position?

**Tony:** "They can gain the practical experience by participating in research projects which either come to us from outside sources, or are sponsored by the faculty. The student does these projects on an hourly basis. So one can arrange to apply how ever many hours he or she is able to squeeze into his or her weekly work schedule."

**Caveat:** When should a student start the process of utilizing the placement center?

**Tony:** "The first contact for a first-year student, should take place in November at the Legal Career Options day. This is the day when 35-40 employers from many facets of the legal profession (law firms, corporations, public interest groups, government agencies, and public agencies) come on campus to conduct an informal visit with the students. They provide both specific and general information about career opportunities in the legal community. For some, this informal contact will lead to a formal contact later on."

The first-year student's second contact should take place in the spring at the Placement Center Symposium. Here, one will learn about:

1. the "nuts and bolts" of the placement center;
2. how to put together a resume;
3. other students' summer work experience; and
4. what legal employers are looking for on a legal resume."

CONTINUED ON NEXT PAGE

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## What Is Its Function? What Services Does It Provide To The Student

...FROM PRECEDING PAGE

that it is paramount that the first-year student devote most of his or her time to studying and making good grades. Good grades and passing are the primary tools to obtaining a legal career opportunity of your choosing.

**Caveat:** Tony, what if a student does not participate in on-campus interviews conducted in the fall; does that mean the student will not get a good job in the summer?

**Tony:** "In the fall, the on-campus interviewing, for the most part, is conducted by the large and prestigious firms who want to hire for the ensuing summer the top 10-20 per cent of the class. Job opportunities exist all year round. The large firms only represent a small percentage of the hiring that goes on for law students. Most jobs come from apprentice work." Here Tony explained what he meant by apprentice work: This is where smaller firms, between 2-10 people, who have experienced an unexpected increase in work beyond their existing capacity, decide to hire a law clerk to relieve the overload. This is the best way to recruit for them, because it gives the firm an opportunity to observe and work with the person prior to his or her becoming an attorney. If it works out, when the student graduates, the firm usually offers the student a job as an attorney conditioned upon the student's passing the bar exam. "Only the big law firms can project their needs for summer employment in the fall. On the whole, the Bay Area has a very vibrant legal community."

**Caveat:** What about second-year students? What should their interaction be with the Placement Center?

**Tony:** "They should be picking up the *Placement Handbook*, which is an

informational guide on how to use the placement center, and on how to develop a legal resume. They should set-up an appointment with me, but prior to this appointment, the student should have prepared a rough draft of his or her legal resume, so that we can go over it. Finally, the student should setup an appointment with my Administrative Assistant, Shirley Cohen, for a comprehensive tour of the office. It should be done with 4-5 students at a time, it takes no more than thirty minutes, and it provides a brief overview of the office's facilities."

**Caveat:** And the third-year students, what advice do you give to them?

**Tony:** "My relationship with a student should be an ongoing one." (What Tony meant by this statement is that during law school a person relates to this office as a student. After graduation, it will become a source of career counselling and guidance towards the graduate's first job as an attorney. Next, it is hoped that the alumnus will continue the relationship as an employer. Finally, since lawyers tend to work for more than one legal entity, the placement center will render assistance when the alumnus wishes to make a lateral move.)

**Caveat:** What advice do you give to those students who do not have a job offer prior to graduation?

**Tony:** "If a student has not secured a legally-related job prior to graduation, do not concern yourself with this issue until:

1. After you have taken the Bar exam;
2. Spent some quality time with your family and friends; and
3. Relaxed and recovered from the experience.

Don't look for a position while studying for the Bar."

**Caveat:** Ok, I've taken the Bar, spent time with friends and family and recovered from the experience. What is next?

**Tony:** "Come to the Placement Center. As to how long it will take a person to find a job, that is essentially up to the person. It's like physical exercise, what you put into it will determine what you get out of it. Don't do mass mailing. Choose who or what field of law you are interested in working for. If you've got strings, don't pull, yank them!"

**Caveat:** Is there anything else you would like to add?

**Tony:** "The students should keep abreast of what is going on. Take time to look at the calendar outside of the Dean's office (the unit, not just the Dean's individual office). Check the Job Opportunities Bulletin Board on the left, just as you are leaving the Dean's Office; it's by the lockers. And read the *Law School News*, and of course the *Caveat* for placement center announcements. There are a lot of employment information and opportunities available to the student, but it is up to the student to take advantage of it."

**Caveat:** On the whole, Tony does feel the students make good use of the Career Placement Center. He believes the majority of his time has to be devoted to those students who are not found in the top quarter of the class, but are instead, located in the bottom quarter. They generally have a greater need for the guidance he offers. However, wherever you are, Tony sees his role as serving 100 percent of the student body, and will try to provide you with the career counselling you need. Just don't ask him to get you a job.

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## JOB INFORMATION AND OPPORTUNITIES ....

### **Lawyers in Transition 4th Quarter Calendar:**

#### **Monthly Meetings:**

Lawyers in Transition with networking and support opportunities holds monthly meetings at Hastings Law School, 200 McAllister Street, Rm 510, San Francisco, from 6:30 to 8:30 p.m. Meeting fee is \$5.00, no reservation is necessary.

Tues., November 14: Cheryl Clarke, lawyer turned free-lance writer.

Mon., December 11: Vivian Holley, lawyer/mediator & John Lemmon, mediator/mediator trainer.

For further calendar information of seminar and other workshop events sponsored by *Lawyers in Transition*, please call Hindi Greenberg at (415) 285-5143.

### **JOB OPPORTUNITIES:**

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If you're a first, second or third-year law student, please call the JAGC Professional Recruiting Office toll-free at 1-800-336-3315. (Editor's note: I called this number to see if any restrictions did apply. The Army told me that age may impose a restriction, no older than 35 years old at time of

entry, but this restriction can be waived. The other requirement is you must be physically fit to meet the physical training requirements. Otherwise the Army is just like any other employer.)

Sincerely, *William K. Suter, Major General, U.S. Army, The Judge Advocate General.*

### **Summer Job Opportunity Offered by the ABA:**

The ABA's Public Services Division and Law Student Division now offer a summer-long paid opportunity for up to two interns to undertake public interest law research and writing projects. In concert with Public Services Division staff, the interns will develop writing topics that will result in works to be published by the ABA.

To qualify, the first or second-year student must be a member of the ABA's Law Student Division by January, 1990.

To apply, the student must submit a resume, a cover letter stating his/her interest and qualifications and a 2-5 page essay proposal for a 10-week project. The essay must describe a public interest writing project addressing one or more of the following areas: disability law, dispute resolution, legal problems of older Americans, election law, energy law, environmental law, housing law, international peace and human rights, or the interplay between law and public policy decisionmaking in these areas. **APPLICATION DEADLINE: JANUARY 31, 1990**

Any student interested in receiving an application packet should contact: Penelope S. Ferreira, American Bar Association, 1800 M Street, NW, S-200, Washington, DC 20036

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## AGRICULTURAL LAW JOB FAIR

The *American Agricultural Law Association* is conducting its Fifth Annual Job Fair in conjunction with the AALA's annual conference in San Francisco, California, on November 3 & 4, 1989.

The Job Fair is designed to assist those law students and lawyers who are seeking employment in agricultural law or a related field. Students interested in a career in this area of law should submit copies of their resume to the Job Fair Coordinator, stating their preference in employment. The applicants' resumes will be forwarded to law firms, government agencies and organizations which are presently seeking employees in agricultural law or related fields. Personal interviews will be scheduled during the conference for those applicants in attendance. If the applicant is unable to attend the Job Fair, copies of his/her resume will be posted in a highly visible area near the conference meeting rooms. Participation in the Job Fair is a service provided by the AALA and no employer or job seeker fees will be assessed.

For additional information concerning the Job Fair, telephone either William P. Babione, AALA Executive Director at (501) 575-7389 or George R. Massie, Job Fair Coordinator at (501) 575-3706.

Written requests for information and resumes should be sent to: George R. Massie, Job Fair Coordinator, American Agricultural Law Association, Robert A. Leflar Law Center, University of Arkansas, Fayetteville, Arkansas 72701

## SBA ELECTION RESULTS

### Results of the SBA Election

by Linda Newland  
SBA President

Results of the SBA election held during the week of September 25th showed that the best turnout was seen in the election for the first year day representatives. Over 50 percent of the students voted. The worst turnout was seen in the election for a third year night class representative; only two votes were cast. The most interesting circumstance of this election was seen in the election of second year representatives: There were two "hot" write-in campaigns going on for the position of 2nd year day and 2nd year night representative. Here are the results of this election:

New SBA Board Members  
elected are:

First Year Day - Mike Herald  
and Ashley Tobin

First Year Night - Bonnie Kafin  
and June McGinnis

Second Year Day - Reg Bedell

Second Year Night - Trelawney  
James and David Perrine

Third Year Day - Ken Vierra

Third Year Night - Beverly Saxon

**Congratulations!**

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## DISORDERLY CONDUCT: Excerpts From Actual Cases

### DISORDERLY CONDUCT:

*Verbatim Excerpts from Actual Cases.*

Selected by Rodney R. Jones, Charles M. Sevilla, and Gerald F. Uelmen.

#### Book Review

by Jean Gifford

Associate Editor

Are you tired of Torts? Have you crammed too many cases into your poor over-worked grey cells? Is Remedies bringing you no relief? It's time for you to take a break! Find out what it's REALLY like "Out there."

*Disorderly Conduct* is a delightful collection of excerpts from actual trial transcripts, some of which are hilarious, a few of which are unprintable in this journal, and all of which are, at least in theory, very funny.

The chapters are arranged to present examples of humorous happenings at all stages of the proceedings and at the expense of all who participate in the legal process. No one escapes with unexposed bloopers. To whet your appetite, here are a few typical entries:

**Counsel:** "I want the record also to reflect that the court has made noises on the record indicating a 'tsk' sort of sound, so that the record can at least show..." **The Court:** "For the record, it is spelled t-s-k, I think. Well, Counsel, I would like the record to reflect that your attitude is petulant, childlike, and totally and thoroughly unprofessional." **Counsel:** "I respectfully disagree with the court." **The Court:** "Well, you

have your right to disagree, but we have disagreed before and I certainly disagree with you now. The record is probably as long as you are tall already about statements that have been made by you." **Counsel:** "The record should reflect that I'm short, Your Honor." **The Court:** "Well, the record may also reflect that my patience with you has about reached the point of your height as well."

**Counsel:** "Shot down again." **The Court:** "Any other foundations upon which you would like to urge the admissibility of this?"

**Counsel:** "It's going to take your overruling my. . ." **The Court:** "That's fine. I am pleased to do it." **Counsel:** "I don't want you to be pleased to do it. I would like for you to say it's a very close question." **The Court:** "This is an extremely close question. But having delicately balanced the points of law in favor and the points of law opposed, I am obligated, in following the mandates of the Evidence Code and the higher courts, despite any personal feelings I may have to the contrary, because my duty here is not to impose my personal feelings on my rulings, but to follow the law. And this is one of those occasions where I am discharging my duties solely and simply. And I wouldn't admit this Goddamn thing if you paid me."

**Witness:** (prison inmate) "I'm not bragging or anything, but I want you to know I've got a law degree from LaSalle and I'm just telling you that so you'll know you're not dealing with a

dummy." **The Court:** "I'd like you to know I have a law degree from the University of Washington, and you're not dealing with one either."

**Defendant:** "Judge, I want you to appoint me another lawyer." **The Court:** "And why is that?" **Defendant:** "Because the P.D. isn't interested in my case." **The Court:** (To the Public Defender) "Do you have any comments on defendant's motion?" **Public Defender:** "I'm sorry, Your Honor, I wasn't listening."

**Counsel:** "How do you feel about criminal defense attorneys?" **Juror:** "I think they should all be drowned at birth." **Counsel:** "Well then, you are obviously biased for the prosecution." **Juror:** "What makes you think that, I hate prosecutors too."

**The Court:** "You've been charged with armed robbery. Do you want the court to appoint a lawyer to represent you?" **Defendant:** "You don't have to appoint a very good lawyer, I'm going to plead guilty."

**Counsel:** "Do you have any sort of medical disability?" **Witness:** "Legally blind." **Counsel:** "Does that create substantial problems with your eyesight as far as seeing things?"

**Counsel:** "I'd be glad to make an offer of proof with regard to that question about the tattoo on her breast, but I think it should be made." **The Court:** "The witness

CONTINUED ON NEXT PAGE

# DISORDERLY CONDUCT: Excerpts

..FROM PRECEDING PAGE

by the way, for the record, just asked me if I'd like to see it; and I said, No." **Witness:** "I mean, because it's not on my breast. It's right on my chest." **Counsel:** "May the record reflect that she just showed it to everybody in the court?" **The Court:** "There it is." **Witness:** "Right there." **The Court:** "Some people call that a breast."

**Plaintiff's Counsel:** "What doctor treated you for the injuries you sustained while at work?" **Witness:** "Dr. J." **Plaintiff's Counsel:** "And what kind of physician is Dr. J.?" **Witness:** "Well, I'm not sure, but I remember that you said he was a good plaintiff's doctor."

**Prosecutor:** "You pretty much hate the defendant though, don't you?" **Witness:** "No, not really. I

just think he is a crazy kid. That's all." **Prosecutor:** "Didn't you describe him before as a punk, liar, thief, cheat, and murderer and the lowest form of life that you know?" **Witness:** "Yeah. That pretty well sums him up. But he is a crazy kid on top of that."

**District Attorney:** "What is the meaning of sperm being present?" **Expert Witness:** "It indicates intercourse." **District Attorney:** "Male sperm?" **Expert Witness:** "That is the only kind I know of."

**The Court:** "I suppose the money found on the defendant at the time of his arrest came from this liquor store robbery." **Defendant:** "No, that was bank robbery money."

**The Court:** "Has anyone led you to believe the governor will pardon you if you plead guilty?" **Defendant:** "Well, I haven't been home, Judge, but he might have called my mother."

**The Court:** "All right. Any other questions?" **Defendant:** "How can you sentence an innocent man to prison?" **The Court:** "It's part of my job."

**The Court:** "Is there anything else you would like to say before I pass sentence?" **Defendant:** "Yes, *Kirk to Enterprise -- Beam me up.*"

The above are just a few of the hilarious out-takes from courtroom situations to be found in *Disorderly Conduct*. All in all, it's a marvelous antidote for lawyers (and law students) showing symptoms of "taking it all too seriously."

PRIVATE ALTERNATIVE STUDENT LOAN PROGRAMS	Law Student Loans and Law Access Loans, a Comparison	
<p>Law Students who find that their financial need cannot be met using a combination of the Stafford Loan and SLS, may wish to consider borrowing one of the private alternative loans now available exclusively to students pursuing the J.D. degree.</p> <p>The two private loan programs are the Law Student Loan Program and the Law Access Loan Program. Both Programs enable eligible students to apply for up to \$12,500 per year with a cumulative maximum of \$37,000. The Financial Aid Office determines how much each applicant is able to borrow by taking into consideration the applicant's cost of education and subtracting from this figure Campus-Based Aid award amounts and other loans that the applicant is expected to receive.</p> <p>Here is a Chart Produced by the Financial Aid Office which is used to illustrate some of the key differences between the two programs. In an effort to help students make an informed choice, the financial Aid Office asks that students make an informed choice, the Financial Aid Office asks that students discuss the programs with their financial aid counselor and /or contact the loan representatives at the two programs to go over specific questions or concerns.</p>	LSL	LAL
	<p>\$12,500, (\$37,500 Cumulative Maximum)</p> <p>Number of Pages for a Complex Application 3 pages including Promissory Note (4 with cosigner)</p> <p>No Application Fee</p> <p>Insurance Fee 7.5 % + 3.25 % at repayment (2) 7.5 % (1,2) 8.875 % 6% (1) (1-with Cosigner; 2-If Interest is Capitalized)</p> <p>Interest may be deferred while in school and Capitalized once, at repayment</p> <p>Interest rate At repayment may be either: Variable 91-day T-Bill + 3.25% or Fixed 10 Yr Treasury Bond + 4.5 %</p> <p>Disbursements Up to three with arrangements</p> <p>Bar Student Loan (BSL) Registrar Certifies this application Up to \$5,000 sent to student directly Complex application Treated as a supplemental LSL</p>	<p>\$12,500, (37,500 Cumulative Maximum)</p> <p>Number of Simple Application Pages 2 pages including Promissory Note 1/4 of 1% Application Fee</p> <p>Guarantee Fee 6% if Quarterly interest payments 8% if Capitalize interest</p> <p>Interest may be deferred while in school and Capitalized yearly</p> <p>Interest Rates Variable 91 day T-bill + 3.25%</p> <p>Disbursements only one per loan period</p> <p>Bar Exam Loan (BEL) Financial Aid Certifies this Application Up to \$3,000 sent to Financial Aid Very simple application Treated as supplemental LAL</p>



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